

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENTS RELATES
TO ALL ACTIONS

)
) MDL NO. 1456
)

) Master File No. 01-CV-12257-PBS
)

) Judge Patti B. Saris
)
)
)

**JOINT MOTION OF TOGETHER RX LLC AND PLAINTIFFS
FOR LEAVE TO FILE REPLY MEMORANDA**

Defendant, Together Rx LLC (the “Together Rx Defendants”), and plaintiffs (“Plaintiffs”) (collectively, the “Parties”) hereby jointly move this Honorable Court, pursuant to Local Rule 7.1(B)(3) of the Federal Rules of Civil Procedure, for leave to file The Together Rx Defendants’ Reply Brief in Support of Their Motion to Dismiss Counts V, VI, VII, VIII, and X of the Amended Complaint (“Reply”) and Plaintiffs’ Sur Reply Memorandum in Opposition to the Together Rx Defendants’ Motion to Dismiss. As grounds for and in support of this motion, the Parties state as follows:

1. On or about August 15, 2003, this Court entered Case Management Order 7 (“CMO 7”), which provided a schedule for the filing of the Amended Master Consolidated Complaint.

2. In CMO 7, the Court set a briefing schedule for motions to dismiss, which provided that the Together Rx Defendants were allowed a “joint brief, not to exceed 20 pages in length, addressing only issues related to claims concerning the Together Rx card. . .” Plaintiffs were granted a “20-page brief as to the Together Rx issues.” The order also contemplated that reply and sur reply briefs would be filed on the motions to dismiss, but did not specifically

provide that the Together Rx Defendants (and Plaintiffs in response thereto) were given leave to submit reply memoranda.

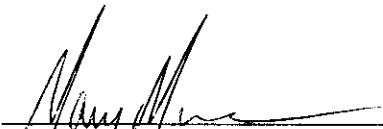
3. Accordingly, Plaintiffs and the Together Rx Defendants jointly request that this Court grant leave to permit the filing of reply and sur reply briefs, each of which will be limited to a length of ten (10) pages or less, to permit the Parties to respond to arguments and factual statements presented in the motion and opposition. The Court will be better informed and in a better position to determine the issues presented in the Together Rx Defendants' Motion to Dismiss if it permits the Parties to present their response to all arguments therein.

4. The reply brief of the Together Rx Defendants is submitted herewith, the sur reply brief of Plaintiffs will be filed by October 15, 2003, in accordance with paragraph 4 of CMO 7.

WHEREFORE, the Together Rx Defendants and Plaintiffs jointly request this Honorable Court grant them each leave to file reply memoranda, each not to exceed ten pages in length.

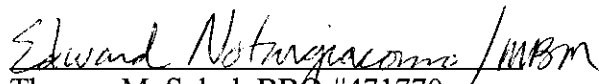
Respectfully submitted,

As to the Together Rx Defendants,



Joseph L. Kociubes, BBO # 276360
Charles L. Solomont, BBO #557190
Mary B. Murrane, BBO # 644448
BINGHAM McCUTCHEN LLP
150 Federal Street
Boston, MA 02110
(617) 951-8000

As to the Plaintiffs,

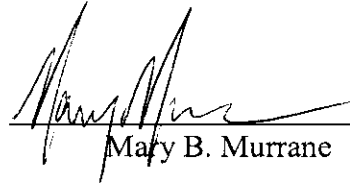


Thomas M. Sobol, BBO #471770
Edward Notargiacomo, BBO #567636
HAGENS BERMAN LLP
225 Franklin Street, 26th Floor
Boston, MA 02110
(617) 482-3700

Dated: September 30, 2003

CERTIFICATE OF SERVICE

I certify that on September 30, 2003, a true and correct copy of the above document was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties.



Mary B. Murrane